IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO. 3115 OF 1996.

Punjab Natrional Bank. ... Plaintiff.

Versus.

M/s.Toa Epi Coats Pvt.Ltd. ... Defendant.

Shri R.N.Singh i/by M/s.Singh & Co. for the Plaintiff.

None for the Defendant.

CORAM : ABHAY S.OKA, J.

DATED : 30th October, 2007.

P.C.:

1. Heard the learned Counsel appearing for the Plaintiff. According to the case of the Plaintiff, the 1st Defendant was granted a cash credit facility to the tune of Rs.2 lakhs. The 2nd and 3rd Defendants are the guarantors who guaranteed repayment of the amount by the 1st Defendant. The suit has been filed for recovery of a sum of Rs.4.86.599.13 ps. due and payable at the foot of the cash credit account. On 6th July 1998 a decree has been passed against the Defendants Nos.1 and 3.

2. On 21st July 1998, this Court granted unconditional leave to the 2nd Defendant to defend the suit. However, written statement has not been filed by the 2nd Defendant. The Counsel for the Plaintiff has placed on record the original deed of guarantee executed by the 2nd Defendant. Notwithstanding the grant of unconditional leave, the 2nd Defendant has not filed written statement and has not contested the suit. In

view of the deed of guarantee which is produced on record and marked "X" for identification, a case is made out for passing a decree as against the 2nd Defendant. Accordingly the suit deserves to be decreed as against the 2nd Defendant. However, further interest as prayed for cannot be granted. The further interest will have to be granted at the rate of 18% per annum.

3. Hence the suit is decreed as against Defendant No.2 in terms of prayer clauses (a) and (b) subject to modification that the further interest will be payable on the principal amount at the rate of 18% per annum from the date of institution of the suit till realisation or payment. The Plaintiff will be entitled to refund of Court fee, if any, as per the Rules. Certified copy is expedited.

Judge.